

5/11/78

KS

THIS FOURTH AMENDMENT TO LEASE, made as of the                      day  
of                      , 1978, by and between the BOSTON REDEVELOPMENT  
AUTHORITY, a public body politic and corporate organized under the  
laws of the Commonwealth of Massachusetts, (hereinafter, together  
with any successors or assigns permitted or authorized by the Lease  
referred to below, called "Lessor"), and FANEUIL HALL MARKETPLACE  
ASSOCIATES, a general partnership composed of Carlyle Real Estate  
Limited Partnership - 1975, an Illinois limited partnership, and  
Faneuil Hall Marketplace Limited Partnership, a Maryland limited  
partnership (hereinafter, together with any successors or assigns  
permitted or authorized by said Lease, called "Lessee").

W I T N E S S E T H:

WHEREAS, under date of February 21, 1975, Lessor and  
Faneuil Hall Marketplace, Inc. ("Faneuil") entered into a certain  
Indenture of Lease wherein Lessor demised and let unto Faneuil  
certain property situate in the City of Boston, Suffolk County,  
Massachusetts, as more particularly described in said Indenture  
of Lease; and

WHEREAS, under date of September 26, 1975, Lessor and  
Faneuil entered into a certain First Amendment to Lease and a  
certain Second Amendment to Lease, amending said Indenture of  
Lease; and



WHEREAS, a notice of said Indenture of Lease, as amended by said First Amendment to Lease and said Second Amendment to Lease, is recorded in the Suffolk County Registry of Deeds (the "Registry") in Book 8827, Page 15 and filed with the Suffolk County Registry District of the Land Court (the "Land Court") as Document No. 325980; and

WHEREAS, under date of December 29, 1975, Faneuil assigned all of its leasehold estate in the property demised by said Indenture of Lease, as amended, unto Faneuil Hall Marketplace Associates, a general partnership composed of Carlyle Real Estate Limited Partnership - 1975 (an Illinois limited partnership) and Quincy Market Corporation ("Quincy"), (a Maryland corporation), by a certain Assignment and Assumption Agreement between said parties and Lessor, the same being recorded in the Registry in Book \_\_\_\_, Page \_\_\_\_, and filed with the Land Court as Document No. \_\_\_\_; and

WHEREAS, under the date of August 26, 1976 Quincy assigned all of its interest in Faneuil Hall Marketplace Associates to Faneuil Hall Marketplace Limited Partnership by Assignment recorded in the Registry in Book \_\_\_\_, Page \_\_\_\_ and filed with the Land Court as Document No. \_\_\_\_; and

WHEREAS, under date of April 15, 1977 Lessor and Lessee entered into a certain Third Amendment to Lease further amending said Indenture of Lease (said Indenture of Lease, as amended by the aforementioned First Amendment to Lease, Second Amendment to Lease and Third Amendment to Lease, being hereinafter referred to as the "Lease"); and



WHEREAS, all capitalized terms used herein shall have the same meanings as are attributed to them in the Lease, except where the context otherwise requires; and

WHEREAS, Lessor and Lessee mutually desire to further amend the Lease in certain respects as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee do hereby covenant and agree as follows:

1. Schedules "A" and "B" attached to the Lease are hereby amended by deleting the same and inserting in lieu thereof Schedules "A" and "B" attached hereto and made a part hereof. The Lessor, for and in consideration of the sum of \$ \_\_\_\_\_, to it in hand paid, receipt of which is hereby acknowledged, and for and in consideration of the rents, covenants and agreements reserved, mentioned and contained in the Lease on the part of Lessee to be paid, kept, observed and performed, has leased, rented, let and demised, and by these presents does lease, rent, let and demise unto Lessee and Lessee does hereby take and hire, upon and subject to the conditions and limitations expressed in the Lease, that certain property described as Parcel 3 in Schedule "B" attached hereto and shown on Schedule "A" attached hereto, to have and to hold the same, subject as aforesaid and subject to the terms, covenants, agreements and provisions of the Lease, unto Lessee for the uses and purposes described in Article IV of the Lease for the Term.



2. Schedules "H," "I," "J" and "K" attached to the Lease are hereby amended by deleting the same and inserting in lieu thereof Schedules "H," "I," "J" and "K" attached hereto and made a part hereof.

3. Section 10.10 is hereby amended by deleting the figure "201" in the eighth line and inserting in lieu thereof the figure "\_\_\_\_\_."

4. Article IV is hereby amended by adding thereto the following new Section:

"Section 4.10. Trash Compaction and Storage Area.

Lessee shall use the portion of the Property described as Parcel 3 in Schedule B (the "Trash Compaction and Storage Area") solely for the installation, construction, maintenance, replacement and repair from time to time, of such trash compaction and electrical equipment and such storage facilities as it may deem necessary or desirable in the servicing and operation of the buildings, structures and other improvements on the Property and such walls, fences or landscaping as Lessee shall deem necessary or desirable in order to screen such equipment and facilities from public view (said equipment, facilities and screening being referred to herein as the "Facilities"); provided that any such installation or construction shall be accomplished in accordance with plans and specifications therefor approved by Lessor pursuant to the provisions of Article X. At any time



after Lessor shall no longer be required to operate (or cause to be operated) the Parking Facility on Parcel D-10 pursuant to Section 10.10, if Lessor shall determine, in good faith, that the location of the Facilities unreasonably interferes with the development or use of Parcel D-10, Lessor may require Lessee to relocate the Facilities to another mutually agreeable location on said Parcel D-10 or, if Lessor and Lessee cannot agree on such location within thirty (30) days after written notice to Lessee of Lessor's election to exercise its right to require such relocation, to such location in former North Market Street or former South Market Street as Lessee shall specify and Lessor shall approve (which approval shall not be unreasonably withheld). Promptly after the determination of the new location of the Facilities (the "New Trash Compaction and Storage Area") pursuant to the next preceding sentences, Lessor and Lessee shall (and Lessee shall cause all Leasehold , Mortgagees to) execute and deliver such instruments or documents as shall be necessary to evidence the termination of this Lease as to the Trash Compaction and Storage Area and the demise to Lessee under this Lease of the New Trash Compaction and Storage Area (unless the same shall be part of the Property) and, in addition thereto, Lessor shall deliver to Lessee (i) evidence, reasonably



satisfactory to Lessee, that Lessor is the owner of an estate in fee simple in the New Trash Compaction and Storage Area, free and clear of all liens, encumbrances, restrictions, covenants or clouds on title, unless the New Trash Compaction and Storage Area is part of the Property in which case Lessor shall not be required to deliver such evidence to Lessee, and (ii) such easements, supplements to the City Lease or other agreements with the City or others as Lessee shall deem reasonably necessary to relocate the Trash Compaction and Storage Area. Within ninety (90) days after such instruments or documents shall have been executed and delivered and such evidence, easements, supplements or other documents shall have been provided, Lessee shall remove the Facilities from the Trash Compaction and Storage Area and shall install, construct or reconstruct the same or substitute facilities in the New Trash Compaction and Storage Area at Lessee's sole cost and expense; provided that if, at the time Lessee is required to undertake and complete such relocation, any Leasehold Mortgagee shall be the Lessee hereunder by reason of having acquired the leasehold estate created by this Lease by foreclosure of a Leasehold Mortgage or by deed in lieu of any such foreclosure, or by the execution of a new lease pursuant to Subsection C of Section 15.07, such relocation shall be at the expense of Lessor, who shall reimburse Lessee,

after demand therefor and upon completion of such relocation, for all costs and expenses incurred by Lessee in connection with such relocation."

4. Except as herein expressly modified or amended, the Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have executed these presents in form and manner proper and sufficient in law as of the day and year first hereinabove written.

- FANEUIL HALL MARKETPLACE ASSOCIATES

By: Carlyle Real Estate Limited  
Partnership - 1975 (general  
partner of Faneuil Hall Market-  
place Associates)

By: Carlyle Managers, Inc.  
(general partner of Carlyle  
Real Estate Limited Partner-  
ship - 1975)

Attest:

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Vice-President

By: Faneuil Hall Marketplace Limited  
Partnership (general partner of  
Faneuil Hall Marketplace Associates)

By: Quincy Market Corporation  
(general partner of Faneuil  
Hall Marketplace Limited  
Partnership)

Attest:

\_\_\_\_\_  
Assistant Secretary

By: \_\_\_\_\_  
Vice-President



## MEMORANDUM

MAY 11, 1978

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT F. WALSH, DIRECTOR

SUBJECT: DOWNTOWN WATERFRONT-FANEUIL HALL URBAN RENEWAL AREA  
PROJECT NO. MASS. R-77  
FOURTH AMENDMENT TO LEASE WITH FANEUIL HALL  
MARKETPLACE ASSOCIATES

At the last meeting, the Authority authorized the execution of a Certificate of Completion for the Quincy Market and South Market Buildings. The proposal to execute a Fourth Amendment to the Market's Lease thereby providing a trash compaction facility is still pending final resolution.

In order to minimize the complication concerning this proposal, Faneuil Hall Marketplace has agreed to delay any construction on the site until July 31, 1978, when our License Agreement with our parking lot manager, APCOA, expires. Faneuil Hall Marketplace would then enter the site on August 1, 1978, and expedite construction in order for the trash compaction unit to be completed on August 26, 1978, the opening date for the final phase of the Market complex.

It is therefore recommended that the Authority approve the Vote in the attached memorandum.

Attachment



MEMORANDUM

April 27, 1978  
May 11, 1978 - As Revised

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT F. WALSH, DIRECTOR

SUBJECT: FANEUIL HALL MARKETS

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The Authority has received a Commencement Notice from Faneuil Hall Marketplace Associates with respect to the North Market Building and, although the Authority had extended the commencement date from April 15, 1977, until April 15, 1978, the completion of the improvements will be achieved by August 26, 1978. This is indicative of the Lessee's continued ability to perform its obligations in accordance with the spirit of its commitments to the Authority and the City of Boston.

The growth and the success of the markets has been truly remarkable. However, as with any substantial and complex projects, it becomes necessary to make minor modifications in order to achieve basic objectives and solve practical problems. Thus, it has been determined that none of the existing buildings have the capacity to efficiently house mechanical and trash equipment. The Authority in the past has partially resolved this matter by permitting the Lessee to place its air conditioning equipment on 1,737 square feet of land on a portion of Parcel D-10 adjacent to the Expressway. This was accomplished by a minor amendment to the Lease by which the demised premises were increased to include this parcel.

In recognition of the need to locate support facilities on a site proximate to the market buildings, the Authority directed its staff, the Rouse Company and the designated developers of Parcel E-8, to examine the feasibility of placing service facilities on the ground level of the proposed garage to be constructed on said parcel. It has been determined that this is not an efficient and effective solution for a myriad of reasons, including, but not limited to, substantial adverse impacts upon traffic flow.

The removal of 20 tons of trash per day, which amount will increase to 30 tons per day after the North Market Building opens, is an obvious and serious problem. The existing buildings cannot house this activity because, inter alia, both the health and fire departments have serious objections to the danger to public safety.

It is proposed that the Lease be further amended by expanding the demised premises by approximately 7,400 square feet so as to permit the installation of a trash facility on said parcel. This proposal is deemed reasonable and necessary under all of the existing circumstances.



parcel: It is important to note the following with respect to this

- (i) This is an irregularly shaped parcel located adjacent to the Expressway and at no time has it been included with Parcel D-10 as a development parcel. In fact, the land use plan contemplates the installation of rights of way upon said area;
- (ii) The parcel is subject to substantial easements for utilities and the Commonwealth has retained access easements to maintain and repair the Expressway;
- (iii) The Lessee must relocate or remove the facility within ninety days after notice by the Authority and at the sole cost of the Lessee;
- (iv) The Authority has reserved development rights in the air rights over said parcel so that if, as and when development is feasible, the use for the proposed facilities will not prevent such a development;
- (v) The design staff has imposed screening requirements which adequately protect the Authority's design concerns;
- (vi) The present proposal immediately resolves the substantial problems attendant to trash removal and satisfies concerns for public safety;
- (vii) The interference with the temporary use of the parcel for surface parking purposes, which use is being provided pursuant to the Authority's contractual obligations to the Lessee and its mortgages, is minimal in that the facility will be installed by August 1, 1978;
- (viii) Intensive construction in that area adjacent to existing Commercial Street is restricted so as to permit a widening of said street. This requirement was imposed upon the Authority by the Public Improvements Commission.
- (ix) The anticipated cost of installation to the Lessee is estimated to be One Hundred and Fifty Thousand (\$150,000.00) Dollars.
- (x) The payment of Fourteen Thousand Eight Hundred (\$14,800.00) Dollars is deemed to be a fair and reasonable one-time expenditure.

In this posture, it is recommended that the execution of the proposed amendment be authorized so that this important project might continue to proceed.



An Appropriate Vote follows:

VOTED: That the Director be and is hereby authorized to execute a Fourth Amendment to the Lease by and between the Authority, the City of Boston and Faneuil Hall Marketplace Associates, in substantially the form attached hereto, which amendment provides basically for the expansion of the demised premises by approximately 7,400 square feet for the installation of a trash facility.